



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

March 10, 2020

CERCLA 104(e) INFORMATION REQUEST
URGENT LEGAL MATTER: PROMPT REPLY REQUESTED
CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Timothy Furrow
Resolute Management, Inc. on behalf of CNA Insurance
141 West Jackson Boulevard
Chicago Board of Trade Annex
Suite 1800A
Chicago, IL 60604

Re: Insureds – Potentially Responsible Parties under CERCLA 107(a) at the
Walker Machine Products Superfund Site, Collierville, Shelby County, Tennessee
CERCLA Section 104(e) Information Request

Dear Mr. Furrow:

The U.S. Environmental Protection Agency seeks cooperation from CNA Insurance in providing information and documents relating to insurance policies that may have been issued to Walker Machine Products, Inc. (WMP) and/or Harold D. Walker, Jr. The EPA has named WMP and Mr. Walker as potentially responsible parties under Section 107(a), 42 U.S.C. § 9607(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for EPA's response costs at the **Walker Machine Products Superfund Site** (Site) in Collierville, Shelby County, Tennessee. The EPA has determined that volatile organic compounds, including trichloroethene (TCE) and tetrachloroethene (PCE) are present at the WMP Site. TCE and PCE are hazardous substances under Section 101 of CERCLA, 42 U.S.C. § 9601. The information that EPA is requesting will aid the EPA in its investigation of the releases and threatened releases of these and other hazardous substances at the Site. Your response may help the EPA develop a better understanding of activities that occurred at the Site.

This information request is not a determination that you are responsible or potentially responsible for the presence of the contamination at the Site. The EPA is sending this letter as part of its investigation of the Site and believes that information from you will assist the Agency in assessing potential insurance coverage for the contaminated conditions at the Site. When the EPA determines that an individual or an entity is responsible or potentially responsible for response activities at a Site, the EPA sends a separate letter clearly stating such a determination as well as the EPA's basis for such determination.

CERCLA Section 104(e), 42 U.S.C. § 9604(e), gives the EPA the authority to require the respondent to respond to this information request (see Enclosure 1). We encourage you to give this matter your full attention, and we respectfully request you to respond to this request for information within thirty

(30) days of receipt of this letter. You may designate another official with the requisite authority to respond on your behalf. However, failure to respond to this information request may result in the EPA seeking penalties of up to \$57,317 per day of violation. In addition, furnishing false, fictitious or fraudulent statements or representations is subject to criminal penalty under 18 U.S.C. § 1001.

Please provide a written response to Melissa Waters, the Enforcement Project Manager for the Site, at the address included in Enclosure 1. Please refer to Enclosures 2 and 3 for important instructions and definitions and Enclosure 4 for specific questions that require your response to this Information Request.

If you have any questions regarding this letter, contact Melissa Waters at phone number (404) 562-8873, or via email at waters.melissa@epa.gov. For legal questions concerning this letter, please have your legal counsel contact Graham Burkhalter at (404) 562-9519, or by email at burkhalter.robert@epa.gov. Thank you for your attention to this matter.

Sincerely yours,

Melissa D. Waters

Melissa Waters
Enforcement Project Manager
Superfund and Emergency Management Division

Enclosures (4)

ENCLOSURE 1

WALKER MACHINE PRODUCTS SITE INFORMATION REQUEST

RESPONSE TO INFORMATION REQUEST

Under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), commonly known as the federal “Superfund” law, the U.S. Environmental Protection Agency (EPA) responds to the release or threat of release of hazardous substances, pollutants or contaminants into the environment to stop additional contamination and to clean up or otherwise address any prior contamination.

The EPA is requesting information under CERCLA Section 104(e), 42 U.S.C. § 9604(e). Pursuant to the authority of CERCLA § 104(e), you are hereby requested to respond to the enclosed information request. If you have any questions concerning the Walker Machine Products Site or this information request letter, please contact Melissa Waters, the designated Enforcement Officer for the Site, at phone number (404) 562-8873, or via email at waters.melissa@epa.gov. Please mail your response within 30 calendar days of your receipt of this request to the following address:

Melissa Waters
SEB 11th Floor
U.S. Environmental Protection Agency
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

If you or your attorney has legal questions that pertain to this information request letter, please contact Graham Burkhalter at phone number (404) 562-9519, or via email at burkhalter.robert@epa.gov. For contact via mail, use the following address:

Graham Burkhalter
Assistant Regional Counsel
CERCLA Law Office
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

BACKGROUND INFORMATION

The Walker Machine Products Site is located at 459 Washington Street in Collierville, Tennessee, approximately 22 miles southeast of Memphis, Tennessee. The Site consists of one parcel of land covering an area of about 5 acres. The soil, indoor air, and groundwater at the Site are contaminated with volatile organic compounds, including tetrachloroethene (PCE) and trichloroethene (TCE), and the City of Collierville’s Wellfield #1, serving about 13,800 people, is located about one-half mile downgradient of the Site.

Walker Machine Products, Inc. is a former owner/operator at the Site. The company manufactured precision fabricated metal products from the 1960s until approximately 2002. Information obtained by the EPA indicates that during its operations, Walker Machine used chlorinated solvents like PCE and TCE to clean its finished products.

EPA considers PCE as “likely to be carcinogenic” to humans by all routes of exposure. Studies in humans suggest that exposure to PCE may lead to a higher risk of bladder cancer, multiple myeloma, or non-Hodgkin’s lymphoma. EPA has characterized TCE as “carcinogenic in humans by all routes of exposure.” There is strong evidence that TCE can cause kidney cancer and some evidence that it causes liver cancer and malignant lymphoma.

During its operations from the 1960s until approximately 2002, the Walker Machine Products facility reportedly disposed of waste onto the ground and may have also disposed of solvents in an on-site oil/water separator. Spills and leaks of these chlorinated solvents by Walker Machine Products resulted in contamination of the subsurface soil and groundwater beneath the Site. As such, the EPA has named Walker Machine Products, Inc. and former owner and President of the company, Harold D. Walker, Jr., as potentially responsible parties under CERCLA.

ENCLOSURE 2

WALKER MACHINE PRODUCTS SITE INFORMATION REQUEST

INSTRUCTIONS

1. Please provide a separate narrative response for each Question and subpart of a Question set forth in this information request.
2. Precede each answer with the Question (or subpart) and the number of the Question (and the letter of a subpart of a Question, if applicable) to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, ***you must supplement*** your response to the U.S. Environmental Protection Agency (EPA). Moreover, should you find, at any time after submission of your response, that any portion of the submitted information is false or misrepresents the truth or, though correct when made, is no longer true, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question (and the letter of a subpart of a Question, if applicable) to which it responds.
5. You may assert a business confidentiality claim covering part or all of the information which you submit in response to this request. Any such claim must be made by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet or a stamped or typed legend or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential.” Confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate the identification and handling by the EPA. If you make such a claim, the information covered by that claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Subpart B of 40 CFR Part 2. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. The requirements of 40 CFR Part 2 regarding business confidentiality claims were published in the Federal Register on September 1, 1976, and were amended September 8, 1976, and December 18, 1985.
6. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as “Personal Privacy Information.”
7. Objections to questions. If you still have objections to some or all the questions within the Information Request Letter, you are still required to respond to each of the questions.

ENCLOSURE 3

WALKER MACHINE PRODUCTS SITE INFORMATION REQUEST

DEFINITIONS

The following definitions shall apply to the following words as they appear in this enclosure:

1. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term “arrangement” means every separate contract or other agreement between two or more persons.
3. The terms “document(s)” and “documentation” mean any object that records, stores, presents, or transmits information, and include, but are not limited to, writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including (by way of illustration and not by way of limitation) any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order; letter, correspondence, fax, telegram, telex, postcard; record book, minutes, memorandum of meetings and telephone and other conversations, telephone messages, inter- or intra-office communications; agreement, contract, and the like; log book, diary, calendar, desk pad, journal, scrapbook; bulletin, circular, form, pamphlet, statement; report, notice, analysis, notebook; graph or chart; photostat or other copy of any document; microfilm or other film record, photograph, or sound recording on any type of device; any tape, disc, or other type of memory generally associated with computers and data processing, together with the programming instructions and other written material necessary to use such disc, or disc pack, tape or other type of memory and printouts of such disc, or disc pack, tape or other type of memory; and attachments to, or enclosures with, any document as well as any document referred to in any other document. The term “document” shall also mean any electronically stored information, including but not limited to emails, word processing files, spreadsheets, presentations, databases, geographic information system (“GIS”) maps, computer-aided design files, scanned or digital photos, and scanned document images.
4. The term “identify” means, with respect to a natural person, to set forth the person’s name, present or last known business and personal addresses, email address(es), and telephone numbers, and present or last known job title, position or business.
5. The term “identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g. corporation, partnership, etc.), organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist.

6. The term “identify” means, with respect to any document(s), to provide its customary business description, its date, its number if any (invoice or purchase order number), subject matter, the identity of the author, addressor, addressee and/or recipient, and the present location of such document.

7. The term “Site” or “facility” shall mean and include the Walker Machine Products, Inc., Site in Collierville, Shelby County, Tennessee.

8. The term “you” or “Respondent” shall mean the addressee of this Request, the addressee’s officers, managers, employees, contractors, trustees, partners, successors and agents.

9. The term “Walker Machine Products” means Walker Machine Products, Inc., including its immediate corporate family, all subsidiaries, all entities in which Walker Machine Products or its subsidiary maintains a controlling interest, all entities in which Walker Machine Products or its subsidiary is a principal owner, all entities over which Walker Machine Products or its subsidiary has the ability to exercise significant influence (or control) over the operating or financial policies, and all entities with which Walker Machine Products or its subsidiary has a substantial business relationship, as these terms are defined herein.

10. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in RCRA, CERCLA, the Toxic Substances Control Act, the Clean Water Act, the Safe Drinking Water Act, or the Clean Air Act and their implementing regulations, in which case the statutory or regulatory definitions shall control.

ENCLOSURE 4

WALKER MACHINE PRODUCTS SITE INFORMATION REQUEST

QUESTIONS

1. Provide copies of all casualty, liability, and/or pollution insurance policies issued by Respondent (or Respondent's predecessors) to Harold D. Walker, Jr and/or Walker Machine Products, Inc. from 1953 to present, including but not limited to comprehensive general liability, primary, umbrella and excess policies, as well as any environmental impairment liability or pollution legal liability insurance.
2. If there are any casualty, liability and/or pollution insurance policies issued by Respondent (or Respondent's predecessors) to Harold D. Walker, Jr and/or Walker Machine Products, Inc. from 1953 to present of which you have any evidence, or of which you are aware, but neither possess copies, nor are able to obtain copies, identify each such policy to the best of your ability by identifying:
 - a. The name and address of each insurer and of the insured;
 - b. The type of policy and policy numbers;
 - c. The per occurrence or per accident policy limits of each policy;
 - d. Whether each such policy is "primary" or "excess"; and
 - e. The commencement and expiration dates of such policy.
3. To the extent not identified in Questions 1 or 2 above, provide all other evidence of casualty, liability and/or pollution insurance issued to Harold D. Walker, Jr and/or Walker Machine Products, Inc. from 1953 to present.
4. For each policy of insurance identified in Questions 1, 2 or 3 above, provide all underwriting files, claim files, loss control files, and premium audits, as well as any accounting records including retrospective rating adjustments, for each such policy.
5. Provide all documents and files that constitute, evidence, refer, or relate to claims made by Harold D. Walker, Jr and/or Walker Machine Products, Inc. under any of the policies identified in Questions 1, 2 or 3.
6. Identify all previous settlements by Respondent (or Respondent's predecessors) with Harold D. Walker, Jr and/or Walker Machine Products, Inc. which relate in any way to environmental liabilities and/or casualty, liability and/or pollution insurance coverage, including:
 - a. The date of the settlement;
 - b. The scope of release provided under such settlement; and
 - c. The amount of money paid by Respondent pursuant to such settlement.Provide copies of all such settlement agreements.
7. Identify all insurance agencies or brokerage firms that placed any casualty, liability and/or pollution insurance policies issued by Respondent (or Respondent's predecessors) to

Harold D. Walker, Jr. and/or Walker Machine Products, Inc. from 1953 to present. Include the name, address, telephone number and time period when the agency placed insurance on behalf of the Respondent as well as the name and current whereabouts, if known, of individuals at the agency or brokerage firm with whom the Respondent communicated and the nature of the communication. If the Respondent believes no agency or brokerage firm was used to place casualty and/or liability and/or environmental insurance on behalf of Harold D. Walker, Jr. and/or Walker Machine Products, Inc., provide an explanation of how such insurance was placed.